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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 5, 1997

Mr. William F. Caton
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

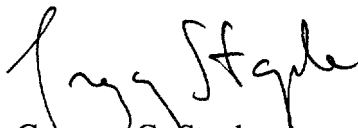
Re: IB Docket No. 96-111 et al.

Dear Mr. Caton:

Transmitted herewith, on behalf of TMI Communications and Company, Limited Partnership (TMI) are an original and nine copies of TMI's "Supplemental Reply Comments" in the above-captioned docket.

Any questions regarding the above should be directed to the undersigned.

Sincerely yours,


Gregory C. Staple

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ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of the Commission's Regulatory)	IB Docket No. 96-111
Policies to Allow Non-U.S.-Licensed Space)	
Stations to Provide Domestic and International)	
Satellite Service in the United States and)	
)	
Amendment of Section 25.131 of the)	CC Docket No. 93-23
Commission's Rules and Regulations to)	RM-7931
Eliminate the Licensing Requirement for)	
Certain International Receive-Only Earth)	
Stations and)	
)	
COMMUNICATIONS SATELLITE)	File No. ISP-92-007
CORPORATION)	
Request for Waiver of Section 25.131(j)(1))	
of the Commission's Rules As It Applies to)	
Services Provided via the Intelsat K Satellite)	

**SUPPLEMENTAL REPLY COMMENTS OF
TMI COMMUNICATIONS AND COMPANY, LIMITED PARTNERSHIP**

TMI Communications and Company, Limited Partnership (TMI), by its attorneys, hereby submits these supplemental reply comments in the above-captioned proceeding.

First, TMI notes the broad support among commenters for allowing satellite operators from World Trade Organization (WTO) countries to enter the U.S. market without having to satisfy an Effective Competitive Opportunities (ECO-Sat) test. It also notes that several commenters caution the Commission against adopting technical requirements for non-U.S. licensees that would amount to a de facto dual-licensing regime, thus imposing an additional entry barrier to service providers from WTO countries.

In support of these points, TMI wishes to respond briefly to certain matters raised by AMSC Subsidiary Corporation (AMSC) concerning the entry of non-U.S. Mobile Satellite Service (MSS) providers from WTO countries operating in the L-band (1.5/1.6 GHz). In its comments, AMSC asserts that earth station license conditions requiring it to provide preemptive access for safety communications and the protection of radionavigation systems also should be applied to non-U.S. MSS L-band systems.¹ The conditions to which AMSC refers stem from an International Telecommunications Union (ITU) Radio Regulation which requires preemptive access for the Aeronautical Mobile Satellite (Route) Service (AMS(R)S) in the upper L-band, and for Global Maritime Satellite Distress and Safety Systems (GMDSS) in the lower L-band.²

Canada is also a member of the ITU. Thus, TMI is already subject to the general requirements in the Radio Regulations protecting AMS(R)S communication; it also protects GMDSS communication requirements in providing MSS service to Canada. TMI consequently is prepared to comply with the specific provisions imposed by the U.S. footnotes to the Radio Regulations at such time as it may provide service in the U.S. on the relevant L-band frequencies. Accordingly, there is no reason to believe that TMI's entry into the U.S. market will interfere with AMS(R)S or GMDSS communications.

¹ See AMSC Comments at 4, 6-7.

² See ITU Regulations Footnotes 730C (requiring immediate availability of AMS(R)S); US308 (requiring real-time preemptive access for AMS(R)S); US315 (requiring priority access and real-time preemptive capability for maritime mobile-satellite distress and safety communications); see also AMSC Subsidiary Corp., 10 FCC Rcd 10458, 10459, 10460-61 (Int'l Bur. 1995).

AMSC also contends that the Commission “retains full discretion ... to continue to determine that there is only sufficient spectrum available for a single system to provide U.S. domestic service” in the MSS L-band.³ Again, TMI does not disagree with AMSC as a matter of principle, but the issue is irrelevant to the provision of U.S. service by TMI's existing MSAT-1 satellite. Spectrum has already been coordinated on a North American-wide basis for the provision of service by MSAT-1 as well as for AMSC-1, the AMSC satellite.⁴ Thus, as TMI has pointed out in its prior comments,⁵ TMI does not require any coordinated spectrum assigned to AMSC to serve the U.S.; it can utilize spectrum which has already been coordinated for TMI.

³ AMSC Comments at 6.

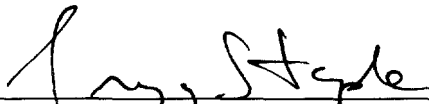
⁴ Only last month, AMSC publicly acknowledged that ample U.S. spectrum already has been coordinated to meet its foreseeable needs. In an interview with Satellite News, Robert Goldsmith, Executive Vice President for AMSC was asked: “How much of the satellite's [AMSC-1] capacity are you actually using?” He replied “Less than I'd like ... We don't have capacity problems.” Satellite News, August 4, 1997, at 5.

⁵ See e.g., TMI's initial “Reply” comments, dated August 16, 1996, at 5-6; TMI's “Supplemental Comments,” dated August 21, 1997, at 6 n.13.

Spectrum limitations simply do not provide a barrier to TMI's U.S. market access, therefore, and the FCC should make that clear in its DISCO II final order.

Respectfully submitted,

TMI COMMUNICATIONS AND COMPANY,
LIMITED PARTNERSHIP

By 

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CERTIFICATE OF SERVICE

I, Barbara Frank, a secretary in the law firm of Koteen & Naftalin, L.L.P., do hereby certify that copies of the foregoing "SUPPLEMENTAL REPLY COMMENTS OF TMI COMMUNICATIONS AND COMPANY, LIMITED PARTNERSHIP" were served by First Class United States mail, postage prepaid, on this 5th day of September, 1997 to the following:

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